CONFERENCE ON DISARMAMENT

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LETTER DATED 17 MAY 1994 FROM THE REPRESENTATIVE OF ROMANIA TO THE CONFERENCE ON DISARMAMENT ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT CONTAINING THE ROMANIAN VIEWS AND A WORKING PAPER ON THE PROPOSAL FOR A CODE OF CONDUCT FOR THE INTERNATIONAL TRANSFERS OF CONVENTIONAL ARMS

I have the honour to forward to you a document containing the Romanian views and a Working Paper on the "Proposal for a code of conduct for the international transfers of conventional arms".

I would appreciate it very much if you take the appropriate steps to register this document as an official document of the Conference on Disarmament as well as a Working Paper of the Ad Hoc Committee on Transparency in Armaments, and to have it distributed to all member delegations and non-member States participating in the work of the Conference.

(Signed) Romulus Neagu
Ambassador

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ROMANIA

Working Paper

PROPOSAL FOR A CODE OF CONDUCT FOR THE INTERNATIONAL TRANSFERS OF CONVENTIONAL ARMS

The structural changes of the international relations have brought the end of the cold war and eliminated the threat of a military East-West confrontation and artificial borders in the way of developing normal relations between all nations.

On the other hand, this period of transition is more than ever full of conflicts and convulsions, risks and uncertainties. There is no doubt that instability and tension will considerably enhance the natural cost of political, economic and social transformations within different regions of the world.

Under the current circumstances, the common awareness of risks and challenges should represent an important stimulus for cooperation.

In recent years, this increasing awareness has underlined the importance of transparency in armaments in relation to enhancing international security. The promotion of transparency would encourage prudent restraint by nations in trading in arms and reduce misunderstandings and tensions caused by lack of information.

A number of recent developments suggest that there is a recognition of the need to exert greater control over transfers of conventional weapons.

The London Economic Summit of the Group of Seven Industrialized Nations (G7) adopted in July 1991 a "Declaration on Arms Transfers and Nuclear, Chemical and Biological Weapons Non-Proliferation" which set out the need for transparency, consultation and action in order to ensure that countries could never again acquire massive arsenals that went far beyond the needs of self-defence.

In the Declaration issued after their meeting on 17-18 October 1991, the five permanent members of the United Nations Security Council adopted common guidelines for the transfer of conventional weapons and agreed to continue discussing the possibilities for lowering tension and arms level, including the development of further measures of restraint concerning arms transfers.

In the CSCE Forum for Security Cooperation in Vienna, the participating States tabled a proposal on "Principles governing conventional arms transfers", recalling that in Prague, on 30 January 1992, "they agreed that effective national control of weapons and equipment has acquired the greatest importance and decided to include the question of establishment of a responsible approach to arms transfers as a matter of priority in the work programme of the post-Helsinki arms control process".

In the efforts of increasing openness and transparency in armaments, in order to make military behaviour more predictable and to reassure concerned States of the non-threatening intentions of potential rivals, the United Nations Register of Conventional Arms - officially established as of 1 January 1992 - is founded on the long-standing basic principles of cooperative security among States.

Romania believes that far-reaching international action is needed to promote restraint and transparency in the transfer of conventional weapons.

In this respect, it might be useful to establish an appropriate frame for consultation and action in order to ensure that countries could never again acquire arsenals that go far beyond the needs of self-defence.

To this end, Romania proposed at the previous session of the Conference on Disarmament that such a frame should be elaborated to bring about responsibility in arms transfers.

In his address to the plenary of the CD on 16 June 1993, the President of Romania, Mr. Ion Iliescu, stated:

> "Conventional arms are, obviously, more frequently used in the hot points of our planet and they often represent a main destabilizing factor. Moreover, the balance of forces established in time or by international agreements in various sensitive regions and zones can be undermined through preferential conventional arms transfer policies.
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> In the future, the overall aspects regarding transparency in armaments could be regulated in an international treaty of universal vocation, which would set standards and procedures, as well as appropriate implementation mechanisms.
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> In order to break the ground for such a comprehensive and complex work, a first stage could be aimed at agreed guidelines to serve as an international code of conduct. The experience in this field of the five permanent members of the Security Council could represent a starting point and a useful contribution for the future efforts of the Geneva Conference, as well as those of the United Nations, the CSCE and various regional bodies."

In this respect, a Code of Conduct is intended to establish a universal and non-discriminatory principles and criteria to be followed by subscribing States in considering arms transfers.

Romania shares the view that there is a responsibility on arms-producing States to ensure that their weapons exports do not contribute to instability or conflicts in other countries or regions and that there is a need that importing countries exercise responsibility and restraint in their procurement policies as well.

For this reason, we consider that the Code of Conduct should be open to all States.

Romania considers that the Code of Conduct should consist of a set of guidelines, namely a list of politically-binding principles and criteria on which arms export and import policies of subscribing States should be based.

The Code would apply to transfers of the seven categories of conventional weapons and equipments on which States are requested to supply data to the United Nations Register: battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, and missiles and missile launchers. The addition of further categories, taking into account significant technical developments, could be considered according to the provisions of the United Nations General Assembly resolution 46/36 L.

The subscribing States will provide data and information according to the requirements of the United Nations General Assembly resolution establishing the Register of Conventional Arms, which could be an important part of the international Code of Conduct for the purposes of increasing transparency in arms transfers, in accordance with universally applicable rules and standards.

In establishing a mechanism for the application of the Code of Conduct, some political and technical key problems should, inter alia, be considered:

(a) key political problems:

- each State's right to security;
- the importance of trade to the economies of the concerned countries and, in this frame, the legitimacy of conventional weapons transfers;
- through GATT, Governments have stressed the need to stimulate trade and remove barriers to the free movement of goods;
- the continued use of weapons to support and promote foreign and security policy.

(b) key technical problems:

- monitoring the physical movement of goods (especially in re-export situation);
- verifying delivery to, as well as diversion within the recipient country;
- defining the limit beyond which armaments are excessive and destabilizing.

The elaboration of the Code could be undertaken in the framework of the Conference on Disarmament and the text could be submitted to the First Committee of the United Nations General Assembly.

This would be consistent with the work undertaken by the CD in response to the requests contained in United Nations General Assembly resolution 46/36 L.

PROPOSAL FOR A CODE OF CONDUCT FOR THE INTERNATIONAL TRANSFERS OF CONVENTIONAL ARMS

BASIC PRINCIPLES

- The recognition of the legitimacy of conventional arms transfers to meet the security and defense needs.

- The reaffirmation of the importance which should be attached to the goal of increasing openness and transparency in armaments essential to enhance mutual confidence.

- the promotion of the establishment of international peace and stability and of undiminished security for all States.

- The commitment that arms transfers are made and used in accordance with the purposes and principles of the Charter of the United Nations.

- The need to preserve regional and international peace, security and stability.

- The prevention of excessive and destabilizing accumulation or armaments, considering that such accumulations pose a threat to national, regional and international peace and security, particularly by aggravating tensions and conflict situations.

CRITERIA

(a) To be followed in considering arms transfers:

- The needs to enable the recipient country to exercise its right to individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations.

- The respect for the international commitments of the subscribing States, in particular on the non-use of force and on the non-proliferation, agreements on arms control and disarmament, as well as other international obligations such as the enforcement of the United Nations Security Council sanctions.

- The respect for human rights and fundamental freedoms in the recipient country.

- The purpose for which the arms transfers are being made and in particular whether they will contribute to an appropriate and proportionate response by the recipient State to the security and military threats confronting it or will enable the recipient

country to participate in peace-keeping or other measures consistent with the United Nations Charter or other regional arrangements.

- The legitimate domestic security needs of the recipient country.

(b) To be followed for avoiding transfers that might:

- Be used for the violation or suppression of human rights and fundamental freedoms.

- Affect national security of other subscribing States and of territories whose external relations are the responsibility of a subscribing State.

- Prolong or aggravate an existing conflict, taking into account the legitimate requirement for self-defence as well as the respect of arms control and disarmament agreements or sanctions adopted by the Security Council.

- Endanger peace, increase tensions and contribute to regional instability or introduce destabilizing military capability into a region.

- Be diverted within the recipient State or be re-exported for purposes contrary to the aims of the Code of Conduct.

- Be used for the purpose of repression, for supporting or encouraging terrorism or other than for the legitimate defense and security needs of the recipient country.

MECHANISM

The Code of Conduct would mark a specific progress in the process of bringing arms trade under international control, started with the decision to establish the United Nations Register of Conventional Arms in December 1991 (resolution 46/36L).

An agreed mechanism is a prerequisite for dialogue on security matters, especially in sensitive fields, and a realistic picture of arms transfers can only be constructed by States on a cooperative basis.

The subscribing States will provide data and information according to the requirements of the United Nations General Assembly resolution establishing the Register of Conventional Arms, which could be an important part of the international Code of Conduct, for the purposes of increasing transparency in arms transfers, in accordance with universally applicable principles and criteria.

The data will be provided annually, not later than 30 April, and could also include information on national legislation and policies in the field of arms transfers, as well as information on export control mechanisms of those transfers.

The institutionalization of periodic consultations at the political and, wherever necessary, military levels on the application of the Code should be realized.

The subscribing States will cooperate in order to establish efficient mechanism for the national control of arms transfers and to avoid illicit transfers.